

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS)	
COMMISSION'S TRIENNIAL REVIEW ORDER)	CASE
NO.		
REGARDING UNBUNDLING REQUIREMENTS)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS)	

PETITION FOR CONFIDENTIALITY

ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine and BTI Corporation (hereinafter "Movants"), hereby request that the following exhibits, each marked "Confidential," which are submitted in response to data requests of BellSouth Telecommunications, Inc. be provided confidential treatment by the Commission pursuant to KRS 61.878 and 807 KAR 5:001, Section 7. These exhibits relate to BellSouth's second set of data requests, which incorporates by reference an earlier set and to which Movants are filing a separate response:

Response to BellSouth Set One (switching questions)

Confidential Exhibits A through D, which relate to BellSouth Interrogatories 11, 12, 13, 25 and 36. These Exhibits include information concerning Movants' service areas, customer counts by CLLI code, utilization of resale versus UNEs, distribution of customers by type, and market share estimates created by Movants.

In support of its petition Movants state as follows:

1. The Commission issued an Order in this docket on November 4, 2003 providing for data requests on non-incumbent providers of local exchange services who are

- parties to this case. BellSouth propounded numerous requests to Movants and other CLEC parties.
2. Movants transmit herewith their responses to BellSouth, including certain confidential information in response to various interrogatories and requests for production.
 3. Movants hereby seek confidential treatment of these confidential exhibits. The supporting exhibits contain information which Movants deems to be proprietary and confidential and which should be afforded confidential treatment by the Commission.
 4. The confidential exhibits are not being filed electronically with the public filings in this case. The confidential exhibits are being provided to BellSouth pursuant to a protective agreement, and to the Commission.
 5. KRS. 61.870, et seq., requires that public agencies within the Commonwealth make available for inspection all public records. Certain exceptions to that general requirement are contained in KRS 61.878, which includes an exception for confidential or proprietary information. In order to qualify for this exception under KRS 61.878(1)(c), a party must demonstrate that disclosure of its commercial information would permit an unfair commercial advantage to its competitors. The procedure for requesting confidential treatment from the Commission is outlined at 807 KAR 5:001, Section 7.
 6. The information contained in Movants' supporting exhibits includes data that Movants believe contains proprietary and commercial information that would permit an unfair advantage to competitors, including competitors who may have

chosen not to participate in this docket. Accordingly, Movants request the Commission to afford confidentiality to this information pursuant to the exception provided in KRS 61.878(1)(c). This information, if disclosed, would cause irreparable harm to Movants. A competitor could use the data to obtain market information about the companies and their business plans. Further, in a competitive market, any information gained about a competitor can be used to that competitor's detriment. Such an unfair competitive advantage skews the marketplace and prevents the development of true competition to the ultimate detriment of the consumer.

7. Disclosure of confidential information of this nature will be detrimental to Movants because it contains data that is not otherwise available to competitors. Once supplied with this information, a competitor could use it to target their marketing efforts to the detriment of Movants. The information sought to be protected is not known outside Movants, nor is it provided to the public; its internal use is restricted to only those employees who have a legitimate business reason for reviewing such, and the companies attempt to control the dissemination of this material through all reasonable means. Indeed, by granting the petition, the public interest will be served because competition will be protected.

WHEREFORE, Movants respectfully request that the Commission enter an order granting confidential treatment of the information contained in the accompanying exhibits.

Respectfully submitted this 18th day of December, 2003.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 18th day of December is a true and accurate copy of the documents attached hereto in paper form. This version was transmitted to the Commission for forwarding to those persons receiving electronic notices from the Commission in this case.

/s/

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